

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NICHOLAS WIDMER, *et al.*,  
Plaintiffs,

-v-

SCALE FACILITATION, *et al.*,  
Defendants.

23-CV-9482 (JPO)

ORDER

J. PAUL OETKEN, District Judge:

Plaintiffs brought this action against Scale Facilitation, David Collard, Vanessa Geronimo, Michael Winn, and Jackie Noller under the Fair Labor Standards Act and New York Labor Law. This action was filed on October 30, 2023. (ECF No. 3.) The docket reflects that Plaintiffs have not served Defendant Jackie Noller. In a March 19, 2024 letter motion, Plaintiffs acknowledged that Defendant Noller, who Plaintiffs believed had moved back to Geelong, Australia, “ha[d] still not been served.” (ECF No. 52 at 2.) Plaintiffs requested additional time to serve Defendant Collard by alternative means, which the Court granted (ECF No. 53), but they did not seek an extension to effectuate service upon Defendant Noller, nor have they provided further update with respect to Noller.

Rule 4(m) of the Federal Rules of Civil Procedure requires a defendant to be served with the summons and complaint within 90 days after the complaint is filed. Rule 4(m) requires that “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m).

In light of Plaintiffs' failure to serve Defendant Jackie Noller, the claims against Noller are hereby DISMISSED without prejudice. The Clerk is directed to terminate Jackie Noller as a party to this case.

SO ORDERED.

Dated: August 30, 2024  
New York, New York



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J. PAUL OETKEN  
United States District Judge